

USSN: 10/014,700

Atty. Docket No.: 10041/3

Amdt. dated October 8, 2003

Reply to Office Action of February 5, 2003

REMARKS

Upon entry of the claim amendments, Claims 1-7 and 9-15 will be all the claims pending in the application.

Claim 1 has been amended by incorporating therein the subject matter of original Claim 8 and subject matter from the description at page 4, lines 6-9, of the specification. New Claim 11 is supported by page 8, lines 12-13. New Claim 12 is supported by page 6, line 26, through page 7, line 10, and reference to Figure 1. New Claims 13 and 15 are supported by page 10, lines 8 through 18. New Claim 14 is supported by, for example, Example 1 at pages 12-13. No new matter has been added.

Referring to the **claim objections** at Section No. 1, page 2, of the Action, Applicants respectfully request their withdrawal in view of the amended claims.

Referring to the **§112, second paragraph**, rejection at Section No. 3, page 2, Claim 1 is clear and definite when properly construed according to the teachings of the underlying disclosure. The porous membrane comprises HDPE and a material incompatible therewith, wherein biaxial orientation of the membrane provides the meshed network of HDPE fibers and striations of layers coplanar with the plane of the membrane layer (Applicants refer to, *e.g.*, page 3, lines 14-25 of the specification).

Referring to the **double patenting rejection** of Claims 1-10 presented at Section No. 4, pages 2-3, of the Action, Applicants have filed herewith a terminal disclaimer. A rejection based on obviousness-type double patenting can be avoided by filing a terminal disclaimer. The filing of a terminal disclaimer to obviate a rejection based on obviousness-type double patenting is not an admission of the propriety of the rejection, and raises neither a presumption nor estoppel on the merits of the rejection (*see*, MPEP §804.02). Accordingly, withdrawal of this rejection is respectfully requested.

The Office Action contains the following four **§102** and **§103** rejections, presented at Section Nos. 6, 8, 9, and 10, pages 3-7:

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Claims 1 and 3-10 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent 4,726,989 to Mrozinski;

Claim 2 is rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Mrozinski in view of U.S. Patent 5,885,721 to Su, *et al.* ("Su");

Claims 1 and 3-10 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent 5,650,451 to Yagi, *et al.* ("Yagi") in view of U.S. Patent 5,756,577 to Gutierrez-Villareal; and

Claim 2 is rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Yagi in view of Gutierrez-Villareal and further in view of Su.

Applicants respectfully traverse each of the rejections.

The prior art does not disclose or suggest the film structures of present independent Claims 1 and 14. Specifically, the prior art fails to disclose or suggest the particular combination of HDPE and amount of incompatible material employed in the presently claimed film structures.

For example, the HDPE exemplified in the primary reference Mrozinski falls outside the scope of the present claims. At column 18, lines 55-57, Mrozinski discloses that for Examples 13-15 a HDPE having a melt flow index of about 0.07. Distinctions between the presently claimed HDPE and the HDPE of the other primary reference, Yagi, are identified at page 9, line 16, through page 10, line 18, of the specification.

Accordingly, Applicants respectfully request the reconsideration and withdrawal of these §102 and §103 rejections.

Reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be

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best resolved through a personal or telephone interview, she is kindly requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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